

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of TIMOTHY E. SMITH and U.S. POSTAL SERVICE,
POST OFFICE, Fort Lauderdale, FL

*Docket No. 99-1727; Submitted on the Record;
Issued August 8, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant established that he sustained a recurrence of disability on or after February 7, 1998, which is causally related to his accepted employment injury of June 21, 1992.

On June 21, 1992 appellant, then a 44-year-old tractor trailer operator, filed a notice of traumatic injury and claim for compensation alleging that he injured his knee when he banged it into the cab of his truck. The Office of Workers' Compensation Programs accepted the claim for a contusion. Appellant did not miss any work as a result of his work injury, but he was placed in light-duty status.

Appellant continued to work in a light-duty status intermittently, until he filed a claim alleging a recurrence of disability on February 7, 1998. Although appellant did not miss any work, he alleged that he had continuing problems with his left knee since his June 21, 1992 accepted work injury.

In support of his claim for a recurrence of disability, appellant submitted discharge instructions from the Holy Cross Hospital dated July 2, 1994, relevant to his original claim.

An x-ray of the left knee dated February 7, 1998 revealed degenerative osteoarthritis and cartilage degeneration of the medial meniscus.

In a treatment note dated February 7, 1998, it is noted that appellant was seen for left knee pain and swelling present in the last three days. A physician whose name is illegible wrote, "[left] knee recurrence has not had a problem for about [one] year." A diagnosis of left knee effusion was listed.

In a March 6, 1998 report, Dr. Carl Kamb, a general surgeon, stated, "[appellant] has had an injury to his left knee with arthritis as well. I recommend light duty for now. He can sit eight hours a day but only for two-hour periods, getting up and walking every two hours."

By letter dated July 16, 1998, the Office advised appellant of the factual and medical evidence required to establish his claim for a recurrence of disability.

In a June 25, 1998 report, Dr. Gary J. Kelman, a Board-certified orthopedist, advised that appellant was referred to him by Dr. Harold S. Reitman, an orthopedist, for evaluation of the left knee. Dr. Kelman noted that appellant injured his left knee at work in 1992 but he did not describe the nature of that injury. Under impression, the physician listed the following: chronic left knee pain, left knee medial compartment degenerative arthritis, rule out degenerative tear of the left medial meniscus, pulmonary problems of questionable etiology, hypertension. Dr. Kelman opined that appellant was very young, heavy and very active for a total left knee replacement. He recommended instead that appellant undergo an arthroscopy but also noted that arthritis could not be corrected with such a procedure.

In a report dated September 3, 1998, Dr. Kelman advised that appellant was three days post left knee arthroscopy with debridement on August 31, 1998. Dr. Kelman noted appellant's complaints of left knee pain and physical findings of moderate effusion. He opined that appellant was temporarily totally disabled.

In a decision dated August 28, 1998, the Office denied appellant's claim for compensation on the grounds that appellant failed to establish that his alleged recurrence of disability was causally related to his accepted June 21, 1992 work injury.

By letter dated September 2, 1998, appellant requested an examination of the written record.

In a January 11, 1999 decision, an Office hearing representative affirmed the Office's August 28, 1998 decision.

The Board finds that appellant failed to establish that he sustained a recurrence of disability on or after February 7, 1998, which is causally related to his accepted employment injury of June 21, 1992.

In accordance with the Office regulations, a recurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.¹ This term also means an inability to work that takes place when a light-duty assignment made specifically to accommodate an employee's physical limitations due to his or her work-related injury or illness is withdrawn or (except when such withdrawal occurs for reasons of misconduct, nonperformance of job duties or a reduction-in-force), or when the physical requirements of such an assignment are altered so that they exceed his or her established physical limitations.²

When an employee claims a recurrence of disability due to an accepted employment-related injury, he or she has the burden of establishing by the weight of the substantial, reliable

¹ 20 C.F.R. § 10.5(x) (1999).

² *Id.*

and probative evidence that the recurrence of the disabling condition for which compensation is sought is causally related to the accepted employment injury. As part of this burden, the employee must submit rationalized medical evidence based on a complete and accurate factual and medical background showing a causal relationship between the current disabling condition and the accepted employment-related condition.³

In the instant case, the Board finds that appellant failed to carry his burden of proof to establish that he sustained a spontaneous change in his medical condition on or after February 7, 1998 that resulted from the June 21, 1992 work injury. The Board notes that the Office only accepted appellant's original left knee injury on June 21, 1992 for a contusion. Although appellant has submitted in support of his recurrence of disability, evidence indicating that he has a severe degenerative left knee condition, he did not submit a reasoned medical report stating that he sustained a recurrence of disability. In the absence of a rationalized opinion explaining addressing how appellant's diagnosed conditions of degenerative arthritis and torn meniscus, as well as appellant's surgery consisting of left knee arthroscopy, were causally related to his original work injury of June 21, 1992, there is no basis on which to award compensation benefits. The Board, therefore, concludes that the Office properly denied appellant's claim for compensation.

The decisions of the Office of Workers' Compensation Programs dated January 11, 1999 and August 28, 1998 are hereby affirmed.

Dated, Washington, D.C.
August 8, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member

³ *Kevin J. McGrath*, 42 ECAB 109 (1990).